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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3274 OF 2007

Shri Sai Samarth Shikshan Prasarak
Mandal & Anr. ... Petitioners

V/s.

Sheela Nana Jadhav
@ Sheela Balu Devkar & Ors. ... Respondents

Mr.S.S. Shah for Petitioners
Mr.A.A. Garge for Respondent No.1
Mr.R.M. Patne, AGP, for Respondent No.2
Mr.Vinod Jadhav for Respondent No.3

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **AUGUST 30, 2007**

P.C.:

. The petition has been filed against the order of the School Tribunal dated 7.3.2007. Respondent No.1 was appointed as a peon on 13.6.2001. This appointment was against the post abandoned by Respondent No.3. Respondent No.1 continued in this post and approval was accorded for her appointment on a permanent basis as a peon. It is the case of the petitioners that in 2006 they received a notice that Respondent No.3 contended that his services had been wrongfully terminated by the petitioners. The petitioners replied to this notice indicating that Respondent No.3 had remained absent from duty from 2001 onwards and that they had treated him as having abandoned the service. In these circumstances, the petitioners refused permission to Respondent No.3 to

resume duty. However, on a legal notice being sent to the management, the management appointed Suresh J. Wankhede on the post and terminated the services of Respondent No.1.

2. The Tribunal has considered the fact that the petitioners had always treated Respondent No.3 as having abandoned the services and, therefore, there was no question of any violation of law in appointing Respondent No.1. The Tribunal has noted the contents of the reply of the petitioners dated 6.7.2006 to the application of Respondent No.3 where all along it has been the petitioners' case that Respondent No.3 had voluntarily abandoned his services due to which Respondent No.1 was appointed in his place.

3. There are no errors committed by the Tribunal in concluding that the termination order issued to Respondent No.1 is illegal. The order of the School Tribunal is upheld. Petition rejected.

4. The learned advocate for the petitioners requests for stay of this order. Stay refused.